



Solutions for Schools
& Families

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Via First Class Mail and Email

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RE: Request for a Due Process Hearing Request – Lucas Goodwin (DOB 06/19/2008)

Dear Superintendent Baker,

Our firm represents Danielle (Parent) on behalf of her son, Lucas (Student). We are filing this due process hearing in a special education matter involving the denial of a free and appropriate public education (FAPE) under the Individuals with Disabilities Education Improvement Act (IDEA) to Lucas by the Bellingham School District (District).

A. Identifying Information/Introduction

Lucas resides with his mother and siblings within the boundaries of the District at [REDACTED] Bellingham, WA 98229. Lucas is currently in the sixth grade. He was attending Whatcom Middle School, which is located at 810 Halleck St, Bellingham, WA 98225.

Lucas is a student with a complex disability profile. He has been diagnosed with Autism Spectrum Disorder (ASD), Attention Deficit Hyperactivity Disorder, Combined Type (ADHD), and Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcus (PANDAS). There is also a question as to if Lucas has complex Post Traumatic Stress Disorder (PTSD). The Parent has requested that the District fund an Independent Educational Evaluation (IEE) at public expense, and the District has agreed to the same. The Parent has requested that Dr. Stacy Cecchet, PhD, ABPP (academic, adaptative, behavior, cognitive, executive functioning, psychological, social emotional), Dr. Jesse Adams, MD (medical), Marilea Brock, MS SLP-CCC (communication), and Shelley O'Donnell, MS, OTR/L (fine motor and sensory processing/regulation) perform the IEE.

B. Description of the Problem

The District puts special education students into pre-determined boxes to serve them. The District self-identifies that it has three specific special education programs that are available for students Lucas' age. Those are:

- Resource: programs provide direct, integrated, and/or consultative services to students with mild to moderate disabilities in general education. Resource programs are based in every elementary, middle and high school.
- Life Skills: Life Skills programs provide a functional academic and skill domain curriculum, with supported integration in general education and opportunities for community-based instruction to students with moderate to severe developmental disabilities. ...
- EBD (Emotionally/Behaviorally Disabled) BRIDGES: The "BRIDGES" programs provide an academic curriculum within a structured behavior management system, with integration or mainstreaming in general education, to students with moderate to severe behavioral disabilities.

<https://bellingham.bellinghamschools.org/special-education/>.

Despite having multiple disabilities concomitant impairments, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments, Lucas has been served in the BRIDGES program since he was in the fourth grade. The District has one middle school location for BRIDGES, that being at Whatcom Middle School.

Lucas has struggled since transitioning to middle school. The BRIDGES program at Whatcom Middle School is chaotic, loud, and distracting. Lucas has had difficulty being able to produce academic work in this environment. Lucas has also been suspended from school for conduct that we believe is a manifestation of his disability and the result of his being in this chaotic, loud, and distracting environment. Lucas' IEP team met to problem solve and it was suggested that Lucas work with a dedicated 1:1 paraeducator in one of two different conference rooms or an empty office.

However, Lucas was instead moved to the bathroom within the BRIDGES room on September 16, 2019. This was traumatizing and humiliating for Lucas and has caused him to develop severe anxiety and phobia associated attending school. Lucas has been unable to return to school since he was moved to the bathroom. The District never provided the Parent with prior written notice of its intention to move Lucas into a bathroom with a dedicated 1:1 paraeducator. Despite repeated requests for an IEP team meeting and the provision of services to Lucas in an interim placement pending the IEP team meeting, the District has refused to offer a meeting at time the Parent can attend or to provide any educational services to Lucas.

In addition to not understanding that it must offer a continuum of educational placements rather than three boxes and that these placements must be tailored to meet individual student needs, it appears that the District fundamentally does not understand what related services are under WAC 392-172A-01155:

- (1) Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student eligible for special education to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.
- (2) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. ...
- (3) Individual related services terms used in this definition are defined as follows:
...
 - (b) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
...
 - (e) Medical services means services provided by a licensed physician to determine a student's medically related disability that results in the student's need for special education and related services.
 - (f) Occupational therapy means services provided by a qualified occupational therapist and includes:
 - (i) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
 - (ii) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
 - (iii) Preventing through early intervention, initial or further impairment or loss of function.

(h) Parent counseling and training means assisting Parent in understanding the special needs of their child; providing Parent with information about child development; and helping Parent to acquire the necessary skills that will allow them to support the implementation of their child's IEP.

...

(j) Psychological services includes:

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(iv) Consulting with other staff members in planning school programs to meet the special educational needs of students as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(v) Planning and managing a program of psychological services, including psychological counseling for students and Parent; and

(vi) Assisting in developing positive behavioral intervention strategies.

...

(m) School health services and school nurse services means health services that are designed to enable a student eligible for special education to receive FAPE as described in the student's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

(n) Social work services in schools includes:

(i) Preparing a social or developmental history on a student eligible for special education;

(ii) Group and individual counseling with the student and family;

(iii) Working in partnership with Parent and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school;

- (iv) Mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program; and
 - (v) Assisting in developing positive behavioral intervention strategies.
- (o) Speech-language pathology services includes:
- (i) Identification of children with speech or language impairments;
 - (ii) Diagnosis and appraisal of specific speech or language impairments;
 - (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
 - (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
 - (v) Counseling and guidance of Parent, children, and teachers regarding speech and language impairments.

As a result, Lucas has not been offered an educational placement in his least restrictive environment that is tailored to meet his unique needs by the District putting him in the BRIDGES box.

C. Request for Records

Pursuant to the Washington Public Records Act (Chapter 42.56 RCW), the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), and the Individuals with Disabilities Education Act as amended (IDEA) (34 CFR §300.613(b)(3)), we hereby request all educational records related to Lucas Goodwin, including but not limited to:

1. All special education records (such as IEPs, IEP drafts, evaluations, evaluation drafts, progress reports, notices of action, notices of meetings; service provider logs, as well as notes taken by staff members and others related to Lucas);
2. All general education records (such as Lucas' cumulative file; attendance, health room notes, and discipline records);
3. All assessments and records provided to the District by the Parent;
4. All data, journals, and progress reports and documents used and relied upon in generating progress reports (regardless of if they were for reporting special education or general education progress);
5. All contractual agreement that relate to Lucas, regardless of how they may be titled, to include contracts between the District and third-party providers;

6. All communications, including email communications, related in any way to Lucas and/or his Parent, including but not limited to communications between District staff, between District staff and third-party providers and experts, and communications between District staff and the Parent.

D. Issues to Be Resolved at Hearing

The Parent request that the Office of Administrative Hearings, in its capacity as designee for the Office of the Superintendent of Public Instruction, consider whether the District violated its obligations under the IDEA and its implementing regulations as follows:

1. Failing to provide the Student with FAPE since October 2, 2017 by not providing him with an IEP developed, reviewed, and revised in accordance with WAC 392-172A-03090 that was appropriate and reasonably calculated to meet his unique needs, to include:
 - a. all specially designed instruction the Student needs in the areas of academics, adaptive, behavior, communication, cognition, executive functioning, fine motor, and social emotional under WAC 392-172A-01175;
 - b. all related services the Student needs, including enough services from speech language pathologists and occupational therapists, as well as related services in the areas of counseling, medical services, psychological, school health services and school nurse services, social work services in schools, and parent counseling and training, under WAC 392-172A-01155;
 - c. all the modification, accommodations, supplementary aides and services necessary that the Student needs under WAC 392-172A-02060(4), WAC 392-172A-01185 and WAC 392-172A-02025;
 - d. the training and supports necessary for school staff and the District's contract service providers to be able to implement the specially designed instruction, related services, the accommodations and modifications, and the supplementary aides and services necessary that the Student needs as part of his educational placement WAC 392-172A-03090(1)(d);
 - e. that included for the provision of specially designed instruction and related services that are based upon scientifically based research consistent with WAC 392-172A-01165;
 - f. that included an annual educational placement as required under WAC 392-172A-02060 and in the manner outlined in the same; and
 - g. individualized and appropriate Extended School Year services under WAC 392-172A-02020.

2. Failing to offer any IEP team meetings for the Student at a mutually agreeable time under WAC 392-172A-03090 from when he was moved to the BRIDGES bathroom on September 16, 2019, despite repeated requests by the Parent for the same. In particular, the District repeatedly sought to hold meetings on at times where it explicitly knew that the Parent could not attend.
3. Committing both a procedural and substantive violation of the IDEA by moving the Student's educational placement to the BRIDGES bathroom on September 16, 2019 without prior written notice of the same to his Parent.

E. Relief Sought

1. Declaratory relief finding that the District violated the IDEA;
2. Declaratory relief finding that the Student was denied FAPE by the District's actions;
3. Compensatory special education and related services for the Student to allow him to obtain the educational benefit that he would have received but not for the District's violations of the IDEA and denial of FAPE consistent with 20 U.S.C. 1415(i)(2)(c)(iii);
4. An IEP that is developed, reviewed, and revised in accordance with WAC 392-172A-03090 and that appropriate and reasonably calculated to meet the Student's unique needs, to include:
 - a. all specially designed instruction the Student needs in the areas of academics, adaptive, behavior, communication, cognition, executive functioning, fine motor, and social emotional, and vision under WAC 392-172A-01175;
 - b. all related services the Student needs, including enough services from speech language pathologists and occupational therapists, as well as related services in the areas of counseling, medical services, psychological, school health services and school nurse services, social work services in schools, and parent counseling and training under WAC 392-172A-01155;
 - c. all the modification, accommodations, supplementary aides and services necessary that the Student needs under WAC 392-172A-02060(4), WAC 392-172A-01185 and WAC 392-172A-02025;
 - d. the training and supports necessary for school staff and the District's contract service providers to be able to implement the specially designed instruction, related services, the accommodations and modifications, and the supplementary aides and services necessary that the Student needs as part of his educational placement WAC 392-172A-03090(1)(d);

- e. for the provision of specially designed instruction and related services that are based upon scientifically based research consistent with WAC 392-172A-01165;
 - f. an annual educational placement as required under WAC 392-172A-02060 and in the manner outlined in the same that is:
 - i. reasonably calculated to allow for the Student to make meaningful educational progress considering his unique circumstances; and
 - ii. includes contracting with non-public agency private schools or agencies pursuant to WAC 392-172A-04080 through 392-172A-04095, private schools under Chapter 180-90 WAC, or public or private agencies under WAC 392-121-188, including interdistrict cooperative agreements for instructional services with other school districts under RCW 28A.225.250 as necessary, to provide the Student with FAPE; and
 - g. individualized and appropriate ESY services under WAC 392-172A-02020.
5. An Order directly the District to complete the IEE without any further undue delay pursuant to WAC 392-172A-05005; and
6. An Order that includes whatever additional relief the court may find just and equitable.

Thank you for your prompt attention to this matter.

Sincerely,

CEDAR LAW PLLC



Shannon McMinimee
Attorneys for the Parent

CC: Client